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MEMORIAL

OF THE

SELECT & COMMON COUNCILS

OF THE

CITY OF PHILADELPHIA,

AGAINST THE INCORPORATION OF THE FAIRMOUNT CANAL COMPANY.

HARRISBURG:

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1835.

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MEMORIAL.

To the Honorable the Senate and House of Representatives of the Commonwealth of Pennsylvania:

The memorial of the Select and Common Councils of the city of Philadelphia, RESPECTFULLY SHEWETH:—

That a petition has been presented to your honorable bodies, praying for the incorporation of a company to make a canal on the western side of the Schuylkill, from Fairmount to Mill creek.

The deep interest which the city of Philadelphia has in the coal trade, as well as the other branches of our internal commerce, together with the importance of the proposed measure in other respects, would have called on your memorialists for an expression of their views on this proposed incorporation, even if councils had not been heretofore requested by the petitioners to make known their opinions in regard to it.

That the coal trade has heretofore been subject to injurious fluctuations, is a fact well known, and your memorialists believe that the causes of these fluctuations are obvious and temporary, and are to be found in the inherent difficulty of regulating with precision the relations between demand and supply in a commerce rapidly expanding, but yet in its infancy. But your memorialists are not aware that the trade has at any time suffered from a want of those accommodations which are necessary to its prosperity; on the contrary, in the fact that the produce of the Schuylkill mines alone is at this moment double the aggregate produce of all the other anthracite mines in the country, they find abundant proof that the facilities of transportation, deposit and shipment, are such as to enable the Schuylkill coal to compete successfully with that of any other quarter.

It is alleged, however, that this is not the fact, and four grievances are stated which it is proposed to remove by the construction of a canal forty-five feet broad and two and a half miles long, ending at a point near Mill creek, and with no out-let into the tide water of the Schuylkill.

The first grievance alleged is, that in consequence of the rise and fall of the tide, the unloading of coal at the wharves on the river can only be conveniently carried on during part of the day, and that in this respect our trade suffers in competition with that of other places where the coal is unloaded in large basins having a permanent water level. Your memorialists submit, that basins may without inconvenience be constructed on the river by the simple contrivance of docks

with tide gates, more cheaply and more beneficially than by the proposed canal. The example of this has already been set at the city dock at the foot of Chesnut street, and will no doubt be followed as the increasing importance of the trade shall require.

It is in the next place alleged that the space on the eastern bank of the Schuylkill is not sufficient to afford reasonable space for unloading and piling the quantity of coal which is already brought down, and that the rents of the water fronts have been very much enhanced within a few years. It is not many years since those water fronts produced no more rent than did at that time the mines of Schuylkill county. If the former have increased in value ten fold, have not the latter increased forty or an hundred fold? If a trade in coal be prosperous, it is as necessary that the value of lands should be increased at the point as well of its destination as of its production. Such increase of value will be in direct proportion to the prosperity of the trade. If the rent of the wharf property on the Schuylkill had not increased, it would be because the trade had not prospered. There is no monopoly of the landings on the Schuylkill. Both sides of the river and in its whole extent are open for the coal trade and all others to seek their most advantageous points of deposit. Your memorialists do not regret that the trade will soon be too great to be accommodated within the limits of the city front on Schuylkill. They rejoice in the belief that the benefits of that trade (if it be permitted to remain in its natural channel,) will overflow those limits, and spread wealth and prosperity in all the neighborhood. They ask no monopoly at the expense of others—they pray that none may be granted at theirs. New wharves will be erected and suitable docks made as the demands of an increasing trade shall call for such improvements. Then matters may be safely trusted to the instinct of the private interest of those parties who are engaged in the trade either as producers or shippers of coal, or as owners of property which has been or may be made a point of its deposit—to wit: the owners of property fronting on the river on both sides of the stream, and from Fairmount dam to the mouth of the Schuylkill. But it is said to be intended at present only to take away from the city and neighboring districts the greater part of the trade which they now have, and that there will soon be trade enough of a different kind to occupy the wharves. Why should their present trade be forced from them? By whose money and enterprize was that trade created? The city of Philadelphia erected the dam at Fairmount at an expense of nearly four hundred thousand dollars—her citizens have at their own expense completed the other works necessary to make the Schuylkill navigable—a great portion of the capital now invested in Schuylkill county has been so invested by her citizens—still they ask nothing but an opportunity of fair competition with their neighbors. Why should it be denied them? Why should it be competent for any set of men to say we will take this trade from its natural channel, in which it is the subject of no monopoly—we will take it from the district of country which now enjoys its benefits—where it is open to boundless competition—districts containing two

hundred thousand souls—and turn it all upon the lands fronting on the river and lying at or near Mill creek, and give, so far as we can, the owners of those lands a monopoly of it.

The manner in which new accommodation is proposed to be given to the trade, deserves consideration. If the trade be too great to be accommodated on both banks, and in the whole extent of a stream like the Schuylkill, how can it have scope on the eastern bank of a canal forty-five feet wide and two and a half miles long? The canal would not be wide enough even to admit of coal boats (which are at least sixty feet long,) being even turned in it, so as to find their way back. The breadth of a coal boat may be taken at fifteen or even twelve feet: In a canal, therefore, forty-five feet wide, if one boat of either of those dimensions were discharging its cargo on either bank, there would not be room for even another boat to lie outside, leaving a passage through which two boats meeting could pass each other. Where are the boats waiting to be unloaded, to lie? Again—boats may conveniently lie and be discharged at the end and on either side of a wharf which projects into the river, whereas in a canal, they can only lie and be discharged along the line of the canal. In the same number of feet front on the river, it is probable that at least three times the number of boats can be simultaneously unloaded, than could be on a similar extent of the canal. If "accommodation be (as it has been defined to be) that whereby a thing may be said to be *accommodated;*" it must be obvious that a canal forty-five feet wide and two miles and a half long, cannot possibly afford accommodation to a commerce which is alleged to be cramped on the tide water of a wide and capacious river like the Schuylkill.

But it is stated in the third place that, by the proposed canal, one handling of the coal will be saved. Your memorialists are entirely at a loss to imagine how this is to be effected. The coal is now landed at the point at which it is to be shipped: It is proposed to land it at a distant point, in order to save handling; but since it must in that case be brought by land to the point of shipment, it would seem that both the labour and loss would be increased, not diminished. It may indeed pass down from the canal to the river on an inclined plane, but the labour of placing it on the plane, and the loss by crumbling or breaking in its descent, are both saved by loading it as at present at the point of shipment. There are three operations which must be gone through, to wit:—the landing, the screening, and the shipment—all of these are, or may be, performed as well on the wharves as on the bank of the canal. It is proposed to add to them, the necessity of transferring the coal from the bank of the canal to that of the river, as a means of saving labour and loss by handling.

It is lastly suggested, that boats have been lost in the tide water below Fairmount. Your memorialists believe that they must have been very few in number, and that many more boats have been lost above Fairmount dam than below it. It is very true, that in time of freshets boats that are crazy, or overladen, or mismanaged, may be lost; and so they might, through similar, sink or run each other down

in the canal: and your memorialists believe that the danger would be quite as great in the one way as the other.

It appears, then, that the proposed canal would be entirely useless for the accommodation of the trade, unless very extensive basins were connected with it, or an outlet lock made at Mill creek, neither of which are understood to form part of the plan of the petitioners, and both of which are expressly or impliedly disavowed by them. If basins were formed on the canal, they could not be suited to the trade as well as those which may or have been formed on the river. If an out-let lock were made at Mill creek, no benefit would be conferred on the trade. At most, it would have been transferred from its present site to a lower point on the river, to the injury of two hundred thousand people, and for the benefit of a few owners of land near Mill creek, who are not satisfied with a competition with their neighbors, but seek for exclusive privileges, to which they are in no way entitled.

Taking the application in its terms and spirit, it may be justly characterized as a petition for a grant to an incorporated company of a monopoly of the landings for coal descending the Schuylkill. However they may be mistaken, that appears to be what the petitioners expect as the result of the success of their present effort.

If, however, the plan be likely to prove abortive, it may be asked why your memorialists should be alarmed at its progress?

The navigation of the Schuylkill was improved by the Navigation Company, under authority given to them by law. By the same law, they had the right of selling all the water power which might be created by their improvements, beyond what should be necessary for the purposes of navigation throughout the line of their works, which were expected to reach, and do reach, the tide waters of the river. They accordingly made a contract with the city of Philadelphia, by which they transferred to the city all the water power to be created by the erection of a dam at Fairmount, (not used for navigation purposes through the lock and canal of the Navigation Company,) on condition that the city should erect the dam and do certain other things specified in the contract. The city have erected the dam, at an expense of nearly four hundred thousand dollars, and at the risk of incurring a much greater expense in what was then a new and hazardous undertaking. The city subsequently purchased, for a large sum, from the Navigation Company, the whole surplus water of the pool above the dam. On the faith of these contracts, the city have also erected large reservoirs and works for providing a supply of water, depending on the use of the water power thus secured. Your memorialists respectfully submit, that under their contracts they have rights which cannot be taken from them, without their consent or adequate compensation. Those rights are, in effect, held in trust for the public. Upon the continuance of the free enjoyment of them, is staked the supply of one of the first necessaries of life for the domestic use, and preservation of the property of the inhabitants of the city and surrounding districts.

Your memorialists suggest, that if it ought to be some overruling necessity which should justify (if any thing could justify,) an inter-

ference with that enjoyment, and that no compensation in money would be adequate for the damages to be sustained by such interference—certainly no such interference can be thought of, when the object is to benefit the private interests of a few owners of property at Mill Creek, however respectable.

To give to a new company any right to the water in the pool above Fairmount, would, in all probability, create embarrassment and injury. No class of rights are so difficult in their adjustment, as conflicting water rights. Although there are at present but two parties, (the City and the Navigation Company,) who have rights of this kind at the point designated; and although the contract by which their rights are defined was drawn and considered with great care, by eminent counsel, yet a serious collision has already occurred. How much the danger of similar collisions would be incurred by introducing a third party, with ill defined claims, may be readily conceived.

Even if the canal be constructed in the manner now proposed, it is impossible to ascertain with accuracy what may be the amount of leakage. That will depend on the nature of the soil, the proximity of the canal to the river, the degree of care and skill, or the contrary, in its construction. If it be constructed cheaply and without extraordinary care, the constructors will have saved money, and the people of the city and districts must suffer, since the water which should have been used for furnishing their supply, will have been taken to make up the leakage of the canal. Why should they be forced to run that risk? But if the canal is to be connected with extensive basins, and an outlet lock into the river, it will involve nothing short of the absolute destruction of the water works. The evaporation and leakage of such basins may be carried to any extent—the whole waters of the dam may be insufficient to supply them. And again, who gains, and who are injured? Where a basin is constructed upon tide water, if it be badly constructed the owner suffers, because the water runs out, and he must wait for the rising tide to supply its place; but on the canal the water for supply is always at hand, and on the same level. The owner of the basin would not suffer: he would have saved money. The public, from whom the water was taken, would alone be injured.

Your memorialists do, therefore, earnestly and heartily remonstrate and protest against granting the application for the proposed canal, believing that the same would be productive of no public good, and that it would be an unjust interference with the rights, and an uncompensated injury to the dearest and most vital interests of all the inhabitants of the city of Philadelphia, and the adjoining districts.

And your memorialists will ever pray.

W. M. MEREDITH,
President of the Select Council.
HENRY TROTH,
President of the Common Council.